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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/917,480 08/26/97 WAKAYAMA

S R-8767

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PM82/0209

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EXAMINER

DINH, T	
ART UNIT	PAPER NUMBER

3644
DATE MAILED:

02/09/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/917,480

Applicant(s)
Wakayama

Examiner
T. Dinh

Group Art Unit
3644



☐ Responsive to communication(s) filed on _____

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-20 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3644

DETAILED ACTION

The Amendment filed 12/13/2000 has been entered. In addition, the finality of the previous office action dated 10/13/2000 has been withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ashkenas in view of Borzachillo.

Ashkenas discloses a blended delta shape wing aircraft that is tailless with independently control surface but is silent on the control surface configuration system in which the control surfaces are selectively reconfigurable to a plurality of predetermined positions as required to optimize the spanwise force distribution across the wing for each of a plurality of different flight configurations. However, Borzachillo clearly shows that control surface configuration system in which the control surfaces are positioned at predetermined positions (see column 3) for certain flight configurations are well known in the art.

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It would have been obvious to one skilled in the art at the time the invention was made to have used control surface configuration system in Ashkenas' system as taught by Borzachillo to optimize the maneuverability of the aircraft. Please note that at a certain predetermined positions, it is inherent that spanwise force distribution across the wing is optimized since this would obviously optimize the maneuverability of the system. Please note that the methods as claimed is met by the apparatus of Ashkenas as modified by Borzachillo.

Response to Amendment

The Examiner has examined the claims with the new limitation that have been inserted. The central argument of the applicant centers on the application of the Borzachillo reference in combination with Ashkenas. The applicant argues that since Borzachillo clearly shows that his aircraft has a tail, it would not have been obvious to one skilled in the art at the time the invention was made to have combined the prior arts. The Examiner respectfully disagrees with this argument. The Examiner utilizes the Borzachillo reference, as directed by the Board of Appeal in its decision dated 7/27/2000, to shows that the control surfaces along a wing is set for different flight conditions. The Examiner in no way intended to suggests that the tail of Borzachillo's aircraft be added to Ashkenas' aircraft. It is clear from the teaching of Borzachillo that Askenas' aircraft control surfaces have predetermined positions so as to perform certain flight maneuvers/conditions with optimized spanwise force distribution across the wing.

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Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

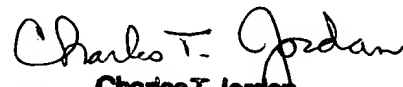
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tien Dinh whose telephone number is (703) 308-2798. The examiner can normally be reached on Monday thru Friday form 8 A.M. to 5 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, C.

Jordan, can be reached on (703) 306-4159.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.


Charles T. Jordan
Supervisory Patent Examiner
Group 3600

T. Dinh

February 7, 2001